

Message Text

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PAGE 01 STATE 193671

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ORIGIN L-02

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P 282025Z SEP 73

FM SECSTATE WASHDC

TO AMEMBASSY PARIS PRIORITY

UNCLAS STATE 193671

EO 11652: NA

TAGS: PFOR, TD

SUBJECT: EMPLOYMENT OF EMBOFF SPOUSE - WAIVER OF
DIPLOMATIC IMMUNITY

"FOLLOWING IS A REPEAT

QUOTE

R 301955Z JUL 73

FM SECSTATE WASHDC

TO AMEMBASSY PORT OF SPAIN

UNCLAS STATE 149301

EO 11652: NA

TAGS: PFOR, TD

SUBJECT: EMPLOYMENT OF EMBOSS SPOUSE - WAIVER OF
DIPLOMATIC IMMUNITY

REF: PORT OF SPAIN 87L

, AS A GENERAL RULE, DEPT WILL APPROVE POST'S WAIVER
OF DIPLOMATIC IMMUNITY ON BEHALF OF DIPLOMATIC OFFICER
OR OTHER PERSON, INCLUDING DEPENDENTS, ENTITLED TO
DIPLOMATIC IMMUNITY ONLY ON CASE-BY-CASE BASIS. THAT
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WHOLESALE WAIVERS RESPECTING UNFORSEE

IS, NO WHOLESALE WAIVERS RESPECTING UNFORESEEN EVENTS IN THE FUTURE ACCEPTABLE. SINCE UNDERLYING BASIS FOR EXTENSION OF DIPLOMATIC IMMUNITY IS PROTECTION OF INTERESTS OF DIPLOMATIC MISSION AND SENDING STATE WHICH IT REPRESENTS, RATHER THAN INDIVIDUAL WHO IS SPECIFIC BENEFICIARY, THESE INTERESTS MUST BE CAREFULLY GUARDED.

2. IN CASE AT HAND, DEPARTMENT UNCERTAIN AS TO EXTENT OF WAIVER REQUIRED IN ORDER TO SECURE WORK PERMIT. IF ONLY WAIVER OF CIVIL RPT CIVIL IMMUNITY INVOLVED, DEPT HAS NO OBJECTION, SINCE SUCH IMMUNITY UNDER THE CIRCUMSTANCES WOULD NOT BE REQUIRED UNDER EXISTING RULES OF INTERNATIONAL LAW. ARTICLE 31 OF VIENNA CONVENTION ON DIPLOMATIC RELATIONS, IN FORCE BETWEEN USG AND GOTT, PROVIDES IN PERTINENT PART AS FOLLOWS: QTE A DIPLOMATIC AGENT SHALL ENJOY IMMUNITY FROM THE CRIMINAL JURISDICTION OF THE RECEIVING STATE. HE SHALL ALSO ENJOY IMMUNITY FROM ITS CIVIL AND ADMINISTRATIVE JURISDICTION. EXCEPT IN THE CASE OF (C) AN ACTION RELATING TO ANY PROFESSIONAL OR COMMERCIAL ACTIVITY EXERCISED BY THE DIPLOMATIC AGENT IN THE RECEIVING STATE OUTSIDE HIS OFFICIAL FUNCTIONS. UNQTE THIS PROVISION IS APPLICABLE TO ALIEN SPOUSES BY VIRTUE OF ARTICLE 37(1) OF THE CONVENTION.

3. WAIVER OF CRIMINAL IMMUNITY AS PREREQUISITE FOR SECURING WORK PERMIT IS NOT RPT NOT ACCEPTABLE.

4. EMBASSY REQUESTED TO SEEK ADDITIONAL CLARIFICATION FROM APPROPRIATE OFFICIALS AND REPORT TO DEPT. ROGERS UNQUOTE KISSINGER

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